EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 18 June 2001

at the request of the Spanish Ministry of Economy on a draft Order on the frontloading of banknotes and coins denominated in euro

(CON/2001/14)

1. On 28 May 2001 the European Central Bank (ECB) received a request from the Spanish Secretary of State for the Economy, Energy and Small and Medium-sized Enterprises for an opinion on a draft Order on the frontloading of banknotes and coins denominated in euro ("the draft Order").

2. The competence of the ECB to deliver an opinion on the draft Order is based on Article 2 of Council Decision 98/415/EC of 29 June 1998 on the consultation of the ECB by national authorities regarding draft legislative provisions.[1] In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, this opinion has been adopted by the Governing Council of the ECB.

3. Article 20(2) of Guideline ECB/2001/1 of 10 January 2001 adopting certain provisions on the 2002 cash changeover[2] recommended that the provisions of the Guideline applied also to the frontloading of coins, which is the competence of each of the governments of the Member States participating in the euro. Hence, the draft Order lays down certain aspects of a common regime for the frontloading of euro banknotes and coins. In particular, the draft Order (1) lays down the starting date for the frontloading of euro banknotes and coins, (2) establishes the parties to whom credit institutions may deliver euro banknotes and coins prior to 1 January 2002, and (3) enables the Banco de España to adopt implementing measures regarding the frontloading of euro coins.

4. Paragraph 3 of the Sole Article of the draft Order lays down that the delivery of euro coins by the Treasury, through the Banco de España, and the delivery of euro banknotes to credit institutions by the Banco de España shall take place as from 1 September 2001. The ECB welcomes this provision which is in line with Article 3 of Guideline ECB/2001/1.

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1 OJ L 189, 3.7.1998, p. 42.
2 OJ L 55, 24.2.2001, p. 80.

5. According to paragraphs 3 and 4 of the Sole Article of the draft Order, frontloading of euro banknotes and coins would be carried out in accordance with the distribution contracts to which the Banco de España and credit institutions are party. These contracts may provide for sub-frontloading as from 1 September 2001 for general commercial distribution and large money traders. Furthermore, credit institutions may deliver limited quantities of euro banknotes and coins to retailers as from 1 December 2001 in accordance with the terms laid down in relevant contracts for frontloading. The ECB welcomes the broad definition of general commercial distribution (meaning retail activities with a large sales volume and a quantity of commercial outlets allowing for a large influx of customers, and a network covering most of the national territory) and of retailers (as including any activity carried out professionally for profit that consist of offering for sale any article or the provision of any service to the final destination, whether or not they use an establishment). The provisions of the draft Order would thus guarantee a pre-distribution of euro banknotes and coins to economic agents across the national territory that would ensure a smooth process for the cash changeover to the euro. Provided that the distribution contracts concluded between the Banco de España and credit institutions comply with the requirements of Guideline ECB/2001/1, sub-frontloading of euro banknotes would not have the effect of anticipated circulation of euro banknotes among the general public.

6. The ECB would like to note that paragraph 2 of the First Final Provision of the draft Order may give rise to confusion as regards the sub-frontloading of euro banknotes and coins to retailers. According to paragraph 2 of the First Final Provision, the General Director of the Treasury and Financial Policy shall be empowered to authorise the sub-frontloading of euro banknotes and coins, as referred to in Article 4 of the draft Order, to third parties other than general commercial distribution or other money handlers, when appropriate. This provision would seem to suggest that sub-frontloading of limited quantities of euro banknotes and coins to retailers by credit institutions would require specific authorisation from the Treasury. This would conflict with the objective of a smooth and efficient pre-distribution stage for the cash changeover. The ECB thus recommends further clarification on the application of this provision.

7. The First Final Provision of the draft Order empowers the Banco de España to develop and implement the draft Order, and to approve the model frontloading contracts with credit institutions for euro coins. The ECB welcomes this provision, as it will facilitate the consistency and co-ordination of the frontloading and sub-frontloading of euro banknotes and coins, and the fulfilment of the recommendation of Guideline ECB/2001/1 that national central banks apply the provisions of the Guideline to euro coins.

8. The ECB confirms that it has no objection to the publication of this Opinion at the discretion of the consulting authority.

Done at Frankfurt am Main on 18 June 2001.

The President of the ECB

[signed]

Willem F. DUISENBERG